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INTERNATIONAL COUNTERTRADE

Draft Legal Guide on International Countertrade Transactions

Report of the Secretary-General

Addendum

VI. TYPE, QUALITY AND QUANTITY OF GOODS

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[Editorial note: The present draft chapter VI is a revision of draft chapter V, "Type, quality and quantity of goods", published as document A/CN.9/332/Add.4. The note in square brackets at the beginning of each paragraph indicates either that the paragraph is new or it refers to the number under which the paragraph appeared in document A/CN.9/332/Add.4. The revisions of paragraphs that appeared in A/CN.9/332/Add.4 are underlined. An asterisk indicates the place where text has been deleted without adding new language.]

A. General remarks

1. [new paragraph] As noted in chapter II, paragraph 2, the discussion concerning "goods" in the Legal Guide is broadly applicable to services and technology. Where necessary, the present chapter makes reference to certain special issues concerning services and technology.

2. [1] The parties may either identify in the countertrade agreement the type of goods that will be the subject of the future supply contract, possibly stating only broad categories of goods, or not stipulate the type of goods. The more precise the countertrade agreement is with respect to the type of goods, the greater the possibility is of stipulating in the countertrade agreement the quantity and quality of the goods. Precision as to type, quality and quantity increases the likelihood that the intended supply contract will be concluded. Sometimes, even though the type of countertrade goods is identified in the countertrade agreement, the exact quality and quantity of the goods are left for later determination because the conditions on which the parties wish to base their decision on quantity and quality are not yet fully known. *

B. Type of goods

1. General remarks

3. [2] Various considerations may enter into the selection of the type of goods. The supplier would prefer that the goods be those that could easily be made available or those that the supplier wishes to introduce in a new market, while the purchaser would like to purchase goods that are needed or could be resold easily. The freedom of the parties to agree on the type of goods to be supplied in one or both directions may be affected by government regulations dealing specifically with the types of goods that may be involved in countertrade transactions. For example, in some countries government regulations exclude certain types of goods from being offered for purchase in a countertrade transaction if the price of the goods is not paid in foreign currency to the the exporter's account. * Government regulations may also provide that the import of certain types of goods is permitted only if the exporter agrees to purchase goods in return.

4. [3] The choice of the parties as to the type of goods may also be restricted by government regulations requiring that the countertrade goods must originate in the country, or in a particular region of the country, or must be purchased from a particular economic sector or group of suppliers. Such restrictions on origin and source are particularly likely to be encountered when the party requiring a countertrade commitment is a

governmental entity. * Clauses in the countertrade agreement concerning origin and source restrictions are discussed in chapter IV, "Countertrade commitment", paragraphs 26 to 28, and chapter VIII, "Participation of third parties", paragraphs __ to __. In addition to regulations specific to countertrade referred to in the previous two paragraphs, there may exist restrictions generally applicable to the export or the import of goods which could affect the freedom of the parties to select the types of goods to be traded under the countertrade transaction.

5. [new paragraph] Parties may wish to be assured, prior to entering into the countertrade transaction, that, if the prescribed conditions are met, there are in principle no obstacles to obtaining the required export and import licences. Such an assurance, which may be given by a party to the transaction or by a third person, may be appropriate, for example, in countertrade transactions that require committing large portions of production capacity or disclosure of technological information. In such transactions the denial of a licence could pose greater difficulties than a similar denial in a simple sales transaction.

6. [new paragraph] If a governmental restriction on the export or import of goods is imposed after the parties have agreed on the type of goods, the parties would be impeded in the carrying out of the countertrade commitment or of a supply contract. Such impediments are discussed in chapter XIII, "Failure to complete countertrade transaction", paragraphs ___ .

2. List of possible goods

7. [4] When the parties conclude a countertrade agreement without determining the type of goods, they may wish to include in the countertrade agreement a list of possible countertrade goods, the purchase of which would count toward fulfilment of the countertrade commitment. Where the countertrade agreement is concluded prior to the supply contracts pertaining to deliveries in both directions (chapter III, "Contracting approach", paragraphs 20 and 21), there may be two lists, one for each direction in which goods will be shipped. The product list may be attached to the countertrade agreement at the time of signature or may be agreed upon later.

8. [5] The countertrade agreement should be clear as to the nature and extent of the undertaking of the parties with respect to a list of possible countertrade goods. The supplier may undertake to make available all the types of goods on the list. In such a case the purchaser would be free to choose from among different types of goods appearing on the list, unless the countertrade agreement restricts the purchaser's choice. For example, there may be a limit on the number of different types of goods that may be purchased or there may be minimum or maximum levels set for the purchase of certain types of goods.

9. [6] The undertaking of the supplier as to availability may be limited to certain specified types of goods on the list. In such a case, the purchaser would be free to choose from among the goods that are identified in the countertrade agreement as being available. The possibility of purchasing any of the other types of goods, whose availability is not assured, would be left to subsequent negotiation.

10. [7] It may be agreed that the purchaser's commitment is to be reduced to the extent the supplier fails to make available those types of goods that are identified in the countertrade agreement as being available (see chapter XIII, "Failure to complete countertrade commitment", paragraphs ___). In addition, the supplier's commitment to make available goods appearing on a list may be supported by a liquidated damages or penalty clause (see chapter XI, "Liquidated damages and penalty clauses") or a guarantee (chapter XII, "Security for performance").

11. [8] When the supplier does not make an undertaking as to the availability of any particular type of goods appearing on the list, the determination of the types of goods actually available will occur in the course of the subsequent negotiations. If the supplier fails to make available any of the goods on the list, the purchaser would not be liable for the failure to fulfil the countertrade commitment (see chapter XIII, "Failure to complete countertrade commitment", paragraphs ____).

12. [9] The parties may wish to state in the countertrade agreement that the purchaser is obligated to supply within a specified time period the specifications necessary to establish accurately the purchaser's requirements with respect to the goods to be purchased and to enable the supplier to make a corresponding offer. The countertrade agreement may indicate that specifications will be provided by a third party (e.g., a trading house engaged to purchase the goods, or an end-user).

13. [10] Because countertrade agreements are often entered into for the purpose of developing new exports or new markets for existing exports, selection of the countertrade goods could be conditioned on a requirement that the goods be a non-traditional export of the supplier or, if they are a traditional export, that they be resold in a new market. Where the purchaser has made prior purchases from the supplier or has a prior commitment to purchase goods from the supplier, the countertrade agreement may stipulate that the purchase is to be of a new type of goods and must result in a level of sales higher than established levels in order to be counted towards fulfilment (see also chapter IV, paragraphs 5 and 6, concerning "additionality" as a factor in setting the extent of the countertrade commitment). It is advisable that the countertrade agreement define the requirements as to new products or markets, either by identifying products and markets considered new or identifying those not considered new.

14. [11] Establishing a procedure in the countertrade agreement for making decisions on the type of countertrade goods may be helpful, particularly in a long term countertrade transaction or one involving multiple parties. For example, the parties may wish to form a joint committee that would meet at regular intervals to identify countertrade goods and to monitor fulfilment of the countertrade commitment. Procedures established for identifying countertrade goods should be coordinated with deadlines in the fulfilment schedule. (See chapter IV, "Countertrade commitment", paragraphs 17 to 20; for a general discussion of negotiation, see chapter IV, paragraphs 56 to 60). Such a joint committee might also be utilized to settle the price of the goods (see chapter VII, "Pricing of goods", paragraph __).

3. Services

15. [new paragraph] When services are to be a subject-matter of a supply contract, it is advisable that the countertrade agreement be as specific as possible in describing them. Even if certain aspects of the envisaged service cannot be agreed upon at the time of entering into the countertrade agreeement, the parties may facilitate subsequent negotiations and increase the likelihood of concluding the intended contract if they describe in the countertrade agreement those aspects of the service that they are in a position to agree on. The descriptions will depend on the type of the service envisaged. For example, if transport is the subject-matter of the future contract, the issues that the parties might be able to address in the countertrade agreement include the following: the routes, type of vehicles or vessels to be used, any special equipment that the carrier must have available, types of goods to be transported, special considerations concerning dangerous goods, any permits that may be necessary to effect the transport and the party responsible to obtain the permits. If maintenance of industrial equipment is the service in question, the countertrade agreement might, for example, outline certain of the elements of a maintenance programme, including the level of efficiency at which the equipment is to be maintained. Such elements could include, for example, periodic inspection of the equipment; maintenance manual and procedures; cleaning; adjustment and lubrication; replacement of defective or worn-out parts; the period of time during which maintenance is to be provided; maintenance schedules; maintenance records; obligations of the parties with respect to unforeseen breakdowns and repairs; manner of calculating the price of the service.

4. Technology

16. [new paragraph] Countertrade transactions may involve the transfer of technological processes necessary for the manufacture of products or the transfer of knowledge and skills necessary to use particular industrial equipment. The communication of these processes, knowledge and skills is often referred to as the transfer of technology. When the transfer of technology is involved in a countertrade transaction, it is usually part of the export contract, i.e., the contract that is entered into at the outset of the countertrade transaction together with the countertrade agreement stipulating the conclusion of a counter-export contract. For example, export contracts in buy-back and indirect offset transactions include the transfer of technology. In some countertrade transactions, however, the countertrade agreement envisages technology to be transferred in connection with a supply contract to be concluded.

17. [new paragraph] The transfer of technology may occur in different ways. It may occur through the grant of licences to use industrial products or processes that are the subject of different forms of industrial property. Most legal systems provide for the registration, subject to certain conditions, of inventions of industrial products or processes which are thereby recognized and protected under the law relating to industrial property in force within the territory of the country in which the registration takes place. The owner of the industrial property obtains the exclusive right to exploit the products or processes that are the subject of the industrial property. A common form of industrial property protection consists of patents. Once a patent is granted, for a limited period determined by law, the invention that is the subject-matter of the patent can be exploited in the

country that granted the patent only with the consent of the patent holder. A person can apply in more than one country for the grant of a patent. There exist international treaties according to which the registration of an invention with the designated international office provides national patent protection in the States members of the treaty; such treaties are, for example, the European Patent Convention of 1973 and the treaty establishing the African Intellectual Property Organization of 1962 and 1977. Most legal systems also recognize other forms of industrial property. For example, a distinctive sign used to identify goods and indicate their origin (e.g., as coming from a particular manufacturer) may be protected through registration as a trade mark. A protected trade mark cannot be used without the consent of the registered owner of the trade mark. The transfer of technology may occur in conjunction with a license for the use of a trade mark. A patent holder or the owner of a trade mark may license the use of the patent or trade mark (i.e., permit, subject to the conditions of the licence, to use the subject-matter of the patent, or the trade mark, in return for remuneration). Some legal systems recognize additional forms of industrial property, such as utility models and industrial designs.

18. [new paragraph] When the purchaser requires a particular technology, it is advisable that the countertrade agreement contain as precise as possible a description of that technology. In some cases, however, the purchaser may prefer the obligations of the supplier of the technology to be defined primarily in terms of certain performance parameters to be achieved by the use of the technology (e.g., production of goods of a quantity and quality stipulated in the contract). In such cases, a general description of the technology may be sufficient for the countertrade agreement, and the supplier may be required to provide the detailed description upon the conclusion of the supply contract.

19. [new paragraph] Certain industrial processes may be known only to one or a few enterprises. These enterprises might not wish, or may have been unable, to protect the industrial processes through registration in accordance with the law relating to industrial property. They may, instead, keep this knowledge confidential. In such cases, the transfer of technology may occur through the supply of this knowledge (generally called "know-how"). Such transfer of know-how may be subject to conditions as to the maintenance of confidentiality by the party to whom the know-how has been transferred. The information and skills necessary for the operation and maintenance of a plant may be communicated through the training of personnel or through documentation. A given transaction may involve the transfer of technology through one or more of the methods described in this and the previous paragraph.

20. [new paragraph] The supplier of know-how will usually require the know-how to be kept confidential. Confidentiality may be required at two stages. Firstly, the supplier may provide some information relating to the know-how during negotiations for the conclusion of the countertrade agreement in order to enable the purchaser to decide whether it wishes to enter into a countertrade agreement, and to make proposals as to contract terms. The supplier will wish the purchaser to keep this know-how confidential. Secondly, when a supply contract is entered into pursuant to the countertrade agreement, the supplier will require the additional know-how supplied thereafter to be kept confidential. To achieve these results, it may be necessary under some legal systems for the parties, prior to the commencement

of negotiations, to conclude an agreement under which the purchaser undertakes to maintain confidentiality with regard to know-how supplied during negotiations, and thereafter to include provisions on confidentiality in the countertrade agreement and in the supply contract. Under other legal systems, however, the obligation of the purchaser to maintain confidentiality results from the obligation of the parties to observe good faith during negotiations. The supplier may wish to consider whether it is necessary to supplement by an express stipulation any obligation to maintain confidentiality imposed by law.

21. [new paragraph] The extent to which contractual provisions may impose obligations as to confidentiality on the purchaser may be regulated by mandatory legal rules. Issues to be addressed by such contractual provisions may include clear identification of the know-how to be kept confidential, the duration of the confidentiality and the extent of permissible disclosure (e.g., disclosure being permissible in specified circumstances, or to specified persons). The parties might seek to provide that once the know-how to be kept confidential becomes available to the public, the obligation of confidentiality terminates, as does the obligation to pay royalties. The parties may also wish to provide, for example, that a person engaged by the purchaser to advise the purchaser in connection with the supply contract is to be allowed access to such of the know-how as is necessary for the exercise of the advisory functions. They may further wish to provide that if the countertrade agreement or the supply contract is terminated because of a failure on the part of the supplier, and the purchaser wishes to achieve the objective of the supply contract by engaging another supplier, the purchaser may disclose to the other supplier such part of the know-how as is necessary for achieving that objective. The purchaser may, however, be obligated to obtain from its adviser or the other supplier prior to the disclosure of the know-how an undertaking that the adviser or the other supplier will not disclose the know-how to others.

22. [new paragraph] An obligation of confidentiality may need to be imposed on the supplier of the technology, for example, when the purchaser is to have exclusive use of the technology, or when the supplier of the technology is to receive improvements to the technology made by the purchaser. In formulating a contractual provision for this purpose, the discussion in the previous two paragraphs may be useful.

23. [new paragraph] This Legal Guide does not deal comprehensively with contract negotiation relating to the licensing of industrial property, or the supply of know-how, since this subject is not specific to countertrade and has been dealt with in detail in publications issued by United Nations bodies. 1/

C. Quality of goods

24. [12] The question of quality of countertrade goods raises two main issues that the parties may wish to address in the countertrade agreement. The first involves specifying the level of quality that the goods must meet; the second involves establishing procedures to ascertain, before the conclusion of a supply contract, that goods being offered meet the specified level of quality (pre-contractual inspection). Agreement on both aspects of quality may help the parties to avoid disagreements over such questions as

whether the party committed to purchase countertrade goods is obligated to purchase particular goods offered by the supplier or whether the goods are worth the price at which they are offered.

1. Specifying quality

25. [13] If the type of goods is not identified in the countertrade agreement, or is identified only by broad categories, precise statements of quality cannot be made. In such cases, the parties may only be able to state quality requirements in general terms such as "export", "prime" or "marketable" quality. When the type of goods is identified, it is advisable to be as precise as possible with respect to quality. If the goods are commodities or semi-manufactured goods with standardized levels of quality (e.g., wire, steel sheets or petro-chemical produts), it may be sufficient to use general statements of quality or descriptors of a particular grade of quality. In the case of manufactured goods, it is advisable to define the quality in a more specific way, for example, by referring to a quality standard, the purpose for which the goods must be fit, packaging, or safety and environmental requirements.

26. [new paragraph] It should be noted that the quality of goods may be subject to standards of various kinds. There may be mandatory regulations prescribing certain measurable standards that goods must meet. In addition, the level of quality to be expected from goods may be a matter of trade usage in a particular market or industrial sector. Furthermore, quality standards may be enunciated in court decisions, for example, when a producer of a product is held liable for damage caused to the user of the product because in view of the court the design of the product was not safe. Moreover, there may exist non-mandatory quality standards or recommendations adopted by bodies such as trade associations, chambers of commerce or associations of users or consumers. Non-mandatory standards may also be established by governmental agencies entrusted with formulating and updating standards for commercial goods and services. Quality standards emanating from the foregoing sources may differ among countries or markets. Major differences may exist in particular with regard to consumer goods or services. In order to avoid disagreements, it is advisable that the countertrade agreement specify the standards that the countertrade goods must meet and, if the understanding of a quality standard may vary, it is advisable to link it to a particular country or market.

27. [new paragraph] When a particular type of service will be a subject-matter of a future supply contract, it is desirable that the countertrade agreement specify the quality standards to be observed in performing the service. If norms established by professional bodies are available, the quality of the service may be described by reference to those norms. Where such norms are not available, the countertrade agreement may stipulate that the service is to be effected in accordance with the standards that would be observed by a professional providing that kind of service. If professional standards differ, it is advisable that the parties specify the country whose professional standards should apply.

28. [14] The parties may wish to address in the countertrade agreement, i.e., prior to the conclusion of a supply contract, the remedies of the purchaser in the event that goods delivered under supply contracts concluded subsequently do not meet quality standards stipulated in the countertrade

agreement or in the individual supply contract. By including such provisions in the countertrade agreement, the parties could avoid negotiating the question of the purchaser's remedies each time a supply contract is concluded.

2. Pre-contractual quality control

29. [15] This section deals with pre-contractual quality control, i.e., quality control carried out before the conclusion of a supply contract by the party committed to purchase in order to establish whether the goods offered conform to the quality standards set in the countertrade agreement. If several shipments of goods are intended, the parties may agree that pre-contractual quality control will be carried out on all goods intended to be the subject-matter of future supply contracts or only on some portions of those goods. Pre-contractual quality control is likely to reduce the possibility that, after a supply contract is concluded, the goods are discovered not to meet the agreed quality standards. It may be noted that a supply contract itself may provide for a quality inspection before the goods are shipped by the supplier ("pre-shipment inspection"). Such pre-shipment inspection, which relates to the performance of a concluded supply contract, is not specific to countertrade and is therefore not discussed in the Legal Guide.

(a) Identity of inspector

30. [16] The pre-contractual quality control may be conducted by an inspector designated either by the party committed to purchase or by the parties jointly. When the inspector is to be designated jointly, the parties may wish to stipulate in the countertrade agreement criteria for the selection of the inspector. When the type of goods has been identified, the parties are in a better position to name the inspector since the subject-matter in which the inspector would need expertise is known to the parties.

(b) Inspection procedures

31. [17] It is advisable that the parties agree on various aspects of the inspection procedure such as: the location and time of inspection; the time-frame for inspection; the manner of notifying the parties of the inspection results; the mandate of an inspector to be designated jointly; whether, in the case of an inspector designated by the purchaser, the supplier will be informed of the inspector's mandate; the inspector's duty of confidentiality; deadlines for submission of the inspector's report; a requirement that reasons be stated for a finding that the goods are non-conforming; whether sampling and testing procedures customarily used in a particular trade suffice or whether ad hoc procedures need to be established; additional inspections or tests when the result of an inspection is contested (e.g., it may be agreed that a party could request a further inspection to be conducted by a second inspector, that in the interest of finding a quick solution the second inspection should be carried out within short time-limits, that an experienced and independent quality arbitrator be engaged for this purpose, and that the second inspection would be controlling); and cost of inspection.

(c) Effect of inspector's finding

32. [18] It may be agreed that the inspector's finding would be regarded as a statement of opinion on the basis of which the parties would consider what steps to take. Alternatively, it may be agreed that a finding by the inspector as to the quality of the goods would directly affect the contractual relationship of the parties. For example, it may be agreed that in the event that the inspector finds that the goods conform to the quality standard stipulated in the countertrade agreement, and if the parties have agreed on the essential terms of a supply contract, the parties are deemed to have concluded the supply contract. In the event of a negative finding, the supplier's offer to conclude a supply contract would be deemed not accepted and the rejection of the goods in question would not constitute a breach of the countertrade commitment. The parties might agree that a negative finding and the rejection of the goods do not affect the extent of the countertrade commitment. Alternatively, it might be agreed that in the case of a negative finding, or in the case that two consecutive offers of the same type of goods are rejected as a result of a negative finding, the party committed to purchase would be released from the countertrade commitment up to the value of the goods refused (see also chapter XIII, "Failure to complete countertrade transaction", paragraph [6]). Where the countertrade agreement envisages various levels of quality, it may be agreed that the inspector's finding as to quality would be used in a formula for determining the price of the goods.

D. Quantity of goods

33. [19] When the countertrade commitment refers to goods of one specified type, the quantity of goods to be purchased may be stipulated in the countertrade agreement or left to be determined at the time of the conclusion of the supply contracts *. When the parties express the countertrade commitment as a monetary amount, rather than as a quantity of goods to be purchased, they may wish to postpone determining the quantity until the conclusion of the supply contract. Such a postponement would allow fluctuations in the unit price of the goods to be taken into account. An increase in the unit price would mean a reduction in the quantity of goods to be purchased, while a drop in the unit price would mean an increase in the quantity to be purchased. When the countertrade commitment is expressed in terms of the number of units to be purchased, the parties may wish to stipulate a minimum monetary amount so that, in the event of a drop in the unit price, additional units would have to be purchased.

34. [20] When the countertrade agreement provides for several possible types of goods, the quantity of each type of goods that will be purchased may be left to be determined at the time of the conclusion of the supply contracts. The overall value of the purchases would have to be in conformity with the extent of the commitment set in the countertrade agreement. The countertrade agreement may specify the minimum and maximum percentages of the countertrade commitment that may be fulfilled by purchase of each type of goods.

35. [21] Where the parties are not in a position to determine quantity in the countertrade agreement, it may be useful for the countertrade agreement to set a deadline for agreement on quantity. The parties may refer to a specific date (e.g., 30 days before the close of a subperiod of the fulfilment period)

or to an event in the contract in the other direction (e.g., in a buy-back transaction it may be agreed that quantity is to be determined upon the start-up of the plant delivered under the export contract).

36. [22] It may also be agreed that, at specified points in the period for the fulfilment of the countertrade commitment, a party committed to purchase would be obligated to provide an estimate of the quantities of goods expected to be purchased in the upcoming period of time. Similarly, a party committed to supply goods may agree to periodically provide an estimate of the quantity of goods expected to be made available. The parties may wish to agree on a permitted deviation between the estimated quantities and the quantities actually purchased or made available.

37. [23] When the proceeds of the export contract are to be used to pay for the counter-export contract, it is advisable that the parties ensure that the quantity purchased under the export contract is such that the proceeds of the export contract would cover payment for the counter-export contract. Payment mechanisms used in such cases are discussed in chapter IX.

38. [24] If the parties foresee the possibility of purchases of quantities beyond those stipulated in the countertrade agreement, they may wish to consider whether the purchaser's additional orders will be granted any preference over other potential buyers. A related issue is whether the additional quantities would be supplied on the same terms as the original quantities envisaged in the countertrade agreement.

39. [25] The parties may leave the quantity of goods to be determined on the basis of the purchaser's requirements. In such cases, the parties may wish to consider whether the supplier is to be the purchaser's single source for the goods and whether the purchases are to fall within a range specified in the countertrade agreement. The quantity of the goods may also be determined on the basis of the supplier's output of a given product. This approach may be used, for example, in a buy-back transaction. In this case too, the parties may wish to stipulate that the purchases are to fall within a range set in the countertrade agreement.

[Two paragraphs on "additionality", which appeared in the earlier draft chapter entitled "Type, quality and quantity of goods" (A/CN.9/332/Add.4, paragraphs 26 and 27), were moved to chapter IV, "Countertrade commitment" (A/CN.9/362/Add.4) paragraphs 5 and 6.]

E. Modification of provisions on type, quality and quantity

40. [28] A need for a review of provisions on type, quality or quantity of goods may arise due to the unavailability of goods specified in the countertrade agreement, the desire to place additional products on a list, a change in the commercial conditions underlying the transaction, a shift in the commercial objectives of the parties or a governmental regulation affecting the choice of countertrade goods. It could be agreed, particularly in long term transactions, that the parties would review the provisions on type, quality and quantity of goods either at regular intervals or in response to changes in circumstances stipulated in the countertrade agreement (e.g., a change beyond a certain threshold in the price of the goods). The review could be carried out within the framework of a mechanism for monitoring and

coordinating fulfilment of the countertrade commitment (see chapter IV, "Countertrade commitment", paragraphs 61 to 74).

41. [29] In order to avoid a modification procedure, the parties may wish to provide that under certain conditions fulfilment credit would be earned by the purchase of goods other than those agreed upon in the countertrade agreement or appearing on a list of possible countertrade goods. For example, it might be required that the purchases in question meet an additionality test (chapter IV, "Countertrade commitment", paragraphs 5 and 6), or it may be stipulated that they would earn fulfilment credit at a reduced rate (for further discussion of clauses allowing non-conforming purchases to be counted toward fulfilment of the countertrade commitment, see chapter IV, paragraph 30).

Note

1/ The negotiation and drafting of contracts for the licensing of industrial property and the supply of know-how is dealt with in detail in World Property Organization, Licensing Guide for Developing Countries (WIPO publication no. 620(e), 1977). The main issues to be considered in negotiating and drafting such contracts are set forth in Guidelines for Evaluation of Transfer of Technology Agreements, United Nations Industrial and Development Organization, Development and Trasfer of Technology Series, No. 12 (ID/233, 1979), and in the Guide for Use in Drawing Up Contracts Relating to the International Transfer of Know-How in the Engineering Industry (United Nations publication, Sales No. E.70.II.E.15). Other relevant publications are the Handbook on the Acquisition of Technology by Developing Countries (UNCTAD/TT/AS/5, 1978) and Guide to Guarantee and Warranty Provisions in Transfer-of-Technology Transactions, United Nations Industrial and Development Organization (prepared jointly by the secretariats of the United Nations Industrial and Development Organization and the International Center for Public Enterprises in Developing Countries) (ID/355, 1989). A manual on technology transfer is currently under preparation by the United Nations Industrial and Development Organization.